IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6054 OF 2001

Razia Esrar Shaikh . .. Petitioner.

vs.

Mr. R.B. Joshi,

Chief Engineer (Commercial)

MSEB & Ors. ..... Respondents.

Mr. Indrajeet Kulkarni for petitioner.

Ms. A.R.S. Baxi for respondent no.4.

Mr. A.H. Palekar, AGP., for respondent no. 5.

CORAM : S.U. KAMDAR, J.

DATE : 23rd November, 2005.

P.C.:

. The present petition challenges the order passed by the Minister dated 5.7.2000 under the provisions of the Indian Electricity Act. The order is challenged on two grounds. Firstly that the same is passed ex-parte and without giving notice. The learned advocate appearing for the State has produced the records of the proceedings before the Minister and has drawn my attention to the fact that the petitioner was served by a notice dated

28.6.2000 at the address which was available on record. The address which was available with the Electricity Board as well as with the Authority was the address where the electricity connection was fixed and in respect of which there was dispute between the parties i.e. at NL-2, Building No. 8, Room No. C-2, Sector - 15, Nerul, Navi Mumbai. The notice has been served on the said address. However, the notice is returned back saying that the petitioner is not residing thereat. No other address was given by the petitioner either to the Electricity Board or to the Authority other than where the electricity connection was given by the Electricity Board. Subsequently, once again a notice was served. The subsequent notice has also come back. In view thereof, I find that the respondent has effected service on the petitioner of the notice of hearing before the Minister on the basis of the address available and it cannot be said that no efforts were made to serve the petitioner. However, the petitioner admits that he has not furnished the changed address either to the Government or the Board for the purpose of effecting service of the proceedings and in that light of the matter, I do not find any substance in the contention that the petitioner is not served and the order of the Minister is ex-parte.

2. On merist, the learned counsel for the

petitioner has contended that the order passed by the Minister in holding that the Electrical Inspector has no jurisdiction under Section 26 (6) of the Indian Electricity Act, 1910 is illegal and unlawful and is liable to be quashed and set aside. It has been contended that the civil court where the suit is pending in his order passed on exhibit-5, interim application dated 21.9.1998, has observed that the petitioner can approach the Electrical Inspector and pursue the matter before the Electrical Inspector and/or any other competent authority. It has been contended that though the provisions of section 26 (6) may not strictly apply and confer jurisdiction on the Electrical Inspector for the purpose of determination of the dispute in the present case still by virtue of the interim order passed by the 3rd Joint Civil Judge, Junior Division, the Electrical Inspector gets the jurisdiction to determine the said dispute. In my opinion, the contention raised has no merit. Firstly the provisions of section 26 (6) of the Indian Electricity Act confer power on the Electrical Inspector to determine the difference and dispute only in cases where any meter referred to in sub-section (1) is found to be correct or not and if there is a dispute about the meter then the jurisdiction is conferred on the authorities. In the present case, there is no dispute whatsoever about any functioning of the meter or any other

apparatus on the basis of which the electricity bill has been challenged. In that light of the matter, the Electrical Inspector had no jurisdiction to entertain the complaint of the petitioner. A mere interim order passed by a Court would not confer a jurisdiction on an authority which lacks the jurisdiction under the statute. In that light of the matter, I do not find any error in the order passed by the Minister holding that the Electrical Inspector has no jurisdiction to entertain and decide the dispute between the parties. In that light of the matter, the petition fails and is accordingly dismissed. No order as to costs.